

HOUSE BILL 3521

By Buck

AN ACT to amend Tennessee Code Annotated, Title 68
and Title 69, relative to water quality.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 69, Chapter 3, Part 1, is amended by adding the following language as a new, appropriately designated section:

§ 69-3-140.

(a) The commissioner is authorized to issue stop work orders for activities that violate or will imminently violate the provisions of this part or activities that threaten public safety in accordance with subsection (b). Stop work orders for coal mining and silvicultural activities shall continue to be regulated under §§ 69-3-139 and 69-3-133 respectively.

(b) In order to protect the public trust and investment in the waters of the state the commissioner may issue a stop work order to the responsible party. The stop work order shall specify those parts of the activities on site that are contributing to the violation or threat. Work shall cease immediately upon notice of the stop work order. The stop work order shall remain in effect until the department determines that the responsible party has taken all necessary measures to remedy the activity causing the violation or threat so as to prevent further harm and until it is determined that the responsible party has complied with any permit requirements. When making a determination that lifting the stop work order is appropriate, the department shall at a minimum require receipts and photos or a site visit by qualified department personnel.

(c) A person failing to comply with a stop work order issued pursuant to this section shall be subject to the provisions of § 69-3-115; provided, however, that in no case shall the total civil penalty be less than twenty-five thousand dollars (\$25,000) plus

the cost of remediation or other compensation for loss of public trust resources to the state.

(d) The commissioner shall issue a stop work order when a sample taken downstream of a site is one hundred (100) turbidity units or greater than the ambient or background level of such body of water. For sites on streams listed pursuant to § 303(d) of the federal Clean Water Act (33 U.S.C. § 1313(d)) that are impaired by sedimentation or habitat loss, the commissioner shall issue a stop work order when the background level or discharge of a sample taken downstream of the site exceeds water quality standards.

SECTION 2. Tennessee Code Annotated, Title 69, Chapter 3, Part 1, is amended by adding the following language as a new, appropriately designated section:

§ 69-3-141.

No fines or penalties imposed pursuant to this title or title 68 relative to water quality violations shall be forgiven or reduced by the commissioner unless and until satisfactory proof is provided that appropriate erosion controls have been built and implemented according to the current storm water pollution prevention plan, if a plan has been requested by the department, or other applicable permit requirements.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.